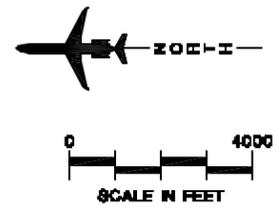


**LEGEND**

- |       |  |   |  |
|-------|--|---|--|
| ———   | Airport Property                                       | ■ | High Density Residential (10.1+ du/ac)               |
| ..... | Municipal Boundaries                                   | ▨ | Floodplains  |
| ----- | Extra-territorial Jurisdiction                         | ■ | Noise Sensitive                                      |
| +++++ | Railroad Tracks  | ■ | School   |
|       | Study Area   | ■ | Library  |
| —     | 2002 65 DNL Noise Exposure Contour, Significant Effect | ▲ | Historic Structures                                  |
| ■     | Low Density Residential (0-3 du/ac)                    | + | Places of Worship                                    |
| ■     | Medium Density Residential (3.1-10 du/ac)              | ■ | Existing Residential within the 65 DNL Noise Contour |

Source: Base Information and Map:  
City of Lincoln Geographic Information System, May 2002  
Goffman Associates Analysis.



## **Purchase of Noise and Avigation Easements**

Noise and avigation easements give an airport the right to direct aircraft over property, creating related annoyances, without the threat of a lawsuit. These easements run with the land and serve as a limited means of notifying prospective property owners of the impact of airport noise. The purchase of noise and avigation easements within the 65 DNL is eligible for federal funding assistance through the noise set-aside of the Airport Improvement Program. Purchase of noise and avigation easements over existing homes may be appropriate if noise is so disturbing that it substantially interferes with the full enjoyment of the property. It may also be appropriate where, as part of a noise abatement or airport development program, noise is introduced to areas which formerly were not impacted.

The advantages of purchasing noise and avigation easements include some legal protection for the airport and limited fulfillment of fair disclosure objectives. An additional benefit is that they compensate airport neighbors who have been heavily impacted by noise and who may have lost some of the potential enjoyment of their property.

A disadvantage of an avigation easement purchase program is its potentially high cost. There is also a risk that despite the expense of purchasing the easements, the airport may become the target of complaints, controversy, political pressure, and even lawsuits, if the noise environment or

the attitude of easement grantors changes substantially. Of course, the purchase of a noise and avigation easement does not mitigate noise, it merely compensates people for the inconvenience caused by noise.

- **EVALUATION AND CONCLUSION**

The City of Lincoln currently requires that avigation easements be placed on all new development within the Airport Environs Noise District.

The ability of the City to acquire avigation easements as a condition of development reduces the need for a separate avigation easement purchase program. This is not a viable alternative.

### **Purchase Assurance**

Purchase assurance programs are intended to assure homeowners in noise-impacted areas that they will be able to sell their property for fair market value. The airport proprietor would acquire the property if the homeowner was unable to sell it on the open market. The airport would then sell the home and retain an avigation easement after making sound insulation or other property improvements.

Purchase assurance programs are most appropriate where there is a widespread concern that homeowners have difficulty selling homes because of noise intrusion. They are appropriate where

the noise levels are not so severe as to make the neighborhood unlivable, or where it is impractical or otherwise inappropriate to acquire and clear neighborhoods.

A purchase assurance program allows the airport to address the concerns of people who are very annoyed by aircraft noise and who desire to leave the neighborhood without suffering financial loss. It can be fairly economical as, in many areas, property values do not experience declines because of aircraft noise. Thus, it may be possible for the airport to sell the home at or near the cost of purchase.

Purchase assurance programs can be fairly complex and time-consuming to administer. They also open up the risk that the airport will have to become a property manager or landlord if market conditions make it difficult to sell homes. The program should be carefully staged to prevent a glut of applicants at any one time. Otherwise, an adverse reaction in the larger real estate market could be caused.

- **EVALUATION AND CONCLUSION**

A purchase assurance program has many disadvantages:

- The program would require considerable administrative support.
- The airport would have to pay closing costs when purchasing and reselling the home, a

relatively unproductive use of its mitigation funds.

- The property purchased by the airport would be removed from the tax rolls during the time it takes to acoustically treat the home, remedy code deficiencies, and sell the home.

- A considerable amount of the airport's mitigation funds would be tied up between the time the airport buys and sells the home.

- The airport would be responsible for the maintenance and security of the property while the property is in the airport's possession.

- As the property owner, the airport would be liable for the cost of all code deficiency repairs.

Purchase assurance would add to the administrative costs of the mitigation program and would impede cash flow by tying up relatively large amounts of money after acquisition and before resale. Therefore, purchase assurance should not be considered.

### **Sales Assistance**

With a sales assistance program, the airport would offer to supplement any bona fide purchase offer up to an amount equal to fair market value. These programs are typically structured very much like purchase assurance programs except that the airport never takes title to the property. The airport

guarantees the property owner of receiving the appraised value, or some increment thereof, regardless of the final sales price that is negotiated with a buyer. In order to prevent collusion between buyer and seller, to the detriment of the airport, the airport must approve the listing price for the home and any downward adjustments of that price. In return for participation in the program, the airport could require the property owners to give the airport an aviation easement. In other respects, the program guidelines would be similar to those described above for purchase assurance programs.

- **EVALUATION AND CONCLUSION**

Similar to the purchase assistance program, sales assistance programs are difficult to administer and tie up large amounts of mitigation funding for extended periods of time. Therefore, sales assistance should not be considered.

### **Development Rights Acquisition**

The ownership of land involves the ownership of a bundle of rights to the use of that land and to develop it to the extent permitted by government regulations such as zoning, health and safety laws, and environmental laws. A property owner can sell some of these rights while still retaining title to the land. For example, a property owner surrenders some of the rights to their property when he or she grants someone an easement or sells the

mineral rights to the property. One of the rights a property owner can sell is the right to develop the property for urban uses.

A different legal instrument, which has substantially the same effect as the purchase of development rights, is a restrictive land use easement. Purchase of such an easement can extinguish the rights to develop the property, rather than simply transfer them to another owner. This distinction can be important when the intent is to totally prevent the possibility of future development. (Theoretically, one might be able to argue that development rights that have been purchased from a property owner by the government could conceivably be sold back to that property owner at some point in the future.)

The purchase of development rights or restrictive land use easements is appropriate when there is insufficient legal justification to use zoning to prevent incompatible uses or where there is strong local opposition to the use of zoning. Development rights purchase can also be an alternative to fee simple acquisition. This is especially appropriate where the land is undeveloped and being farmed or used for private recreation.

The advantage of purchasing development rights is that complete protection from incompatible development can be assured, and the property owners can receive compensation for any perceived loss. In addition, the property can be kept in private ownership, in productive use,

and on the tax rolls while protecting the airport from incompatible development.

The main disadvantage is the potentially high cost of the development rights, in return for which the buyer receives only a very limited interest in the property. In urbanizing areas where property owners have a reasonable basis for development expectations, development rights can cost nearly as much as the full fee title. In rural areas, on the other hand, development rights can be an economical alternative to fee simple acquisition.

- EVALUATION AND CONCLUSION

Purchase of development rights is generally appropriate only in large undeveloped areas. This situation is

not present in the Lincoln Airport study area as most of the vacant land surrounding the airport is zoned or planned for compatible land uses. This option need not be considered further.

### ***PRELIMINARY LAND USE ALTERNATIVES***

**Table 5B** presents the preliminary list of land use management alternatives which deserve consideration. These are to be reviewed by the Planning Advisory Committee (PAC), airport management, and the public. Refinements to these preliminary measures may be necessary before the final plan is developed. In addition, more detailed consideration for the implementation of these recommendations is necessary.

**TABLE 5B**  
**Land Use Management Alternatives Deserving Further Consideration**  
**Lincoln Airport**

	<i>Description</i>	<i>Cost</i>	<i>Implementing Agency</i>
1.	Change the boundaries of the Airport Environs Noise District.	Administrative	City of Lincoln
2.	Update General Plans to reflect the 2002 noise contours from the Part 150.	Administrative	City of Lincoln Lancaster County
3.	Update General Plans to reflect Airport Environs Noise District.	Administrative	City of Lincoln Lancaster County
4.	Consider adopting airport land use compatibility guidelines for review of development projects within the Airport Environs Noise District.	Administrative	City of Lincoln
5.	Maintain compatible zoned areas within the 2002 60 DNL noise contour when possible.	Administrative	City of Lincoln
6.	Consider modifying existing Airport Environs Noise District regulations to reflect the 2002 Part 150 noise contours.	Administrative	City of Lincoln
7.	Consider modifying existing Airport Environs Noise District regulations to reflect the incorporation of the 60 DNL noise contour.	Administrative	City of Lincoln
8.	Consider restricting residential development within the floodplains contained within the Airport Environs Noise District.	Administrative	City of Lincoln
9.	Consider lobbying state legislature to modify fair disclosure regulation to incorporate clauses regarding the impacts of aircraft operation on property.	Administrative	City of Lincoln